

**REMARKS**

Claims 1 - 8, 12 and 14 – 34 are pending in the present application, of which claims 15 – 34 have been withdrawn from consideration.

Figs. 1(a) and 1(b) of Attachment A, included with the July 20, 2004 Amendment, show that a sidewall insulation film is formed on the insulation film, and on the gate electrodes and etching stopper film for the same contact hole, respectively, in order to exemplify the feature of the present invention concerning a sidewall insulation film surrounding the contact hole, as called for in claim 2.

In the Advisory Action dated August 5, 2004, the Examiner argues that the specification lacks support for this feature and asserts the specification only literally states that the sidewall insulation is formed on the contact hole on the sidewalls of the gate and etching stopper film.

However, it is respectfully submitted that the Examiner's position is overcritical, since the specification in the bridging paragraph between 38 and 39 clearly sets forth that the sidewall insulation film 32 is formed on the side walls of the inter-layer insulation film 28 (Fig. 1(a) of Attachment A) and on the side walls of the gate electrodes 20 and the etching stopper film 22 (Fig. 1(b) of Attachment A).

As such, it is respectfully submitted that the present specification provides clear support for the features of claim 2.

**Allowable Subject Matter:**

Applicant gratefully acknowledges the indication that claims 1, 4, 12 and 14 have been allowed.

**Claim Rejections under 35 U.S.C. §103**

Claims 2, 3, 7 and 8 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Hosotani et al.* (U.S. Patent No. 5,977,583) in view of *Kimura* (U. S. Patent No. 6,127,734).

This rejection is respectfully traversed.

The claimed invention has a feature that the side-wall insulation film is formed on an inner wall of the contact hole and the contact hole is surrounded with the sidewall insulation film. This feature means that the sidewall insulation film is formed on all sides of the contact hole (see attached FIGS. 1(a), 1(b) and 2).

The Examiner states in page 2 of the Office Action dated April 20, 2004 that *Hosotani et al* shows that the sidewall insulation film 21 is formed on an inner wall of the contact holes so that side walls of the conductor pattern and the etching stopper film are covered and surrounded. However, this is incorrect. That is, in *Hosotani et al.*, the contact hole is not surrounded with the sidewall insulation film.

In *Hosotani et al.*, the sidewall insulation film 21 is formed on the two sides of the contact hole which are defined by the ends of the gate electrodes 19 (see, e.g., FIGS. 18 and 19

of *Hosotani et al.*, and attached FIG. 1(d)). However, the sidewall insulation film is not formed on the sides of the contact hole which are defined by the ends of the insulation film 22 (see, e.g., FIGS. 18 and 20 of *Hosotani et al.*, and attached FIG. 1(c)). Thus, in *Hosotani et al.*, the sidewall insulation film 21 is formed on only two sides of the contact hole, and the contact hole is not surrounded with the sidewall insulation film 21. Thus, the sidewall insulation film of *Hosotani et al.* clearly differs from that of the claimed invention.

The above-described feature of the present invention is based on the fact that the sidewall insulation film is formed after the formation of the contact hole in the insulation film. On the other hand, in *Hosotani et al.*, the sidewall insulation film 21 is formed on the side walls of the gate electrode 19, then the insulation film 22 is formed, and then the contact hole is formed in the insulation film 22. Thus, in *Hosotani et al.*, the contact hole is never surrounded with the sidewall insulation film 21.

*Hosotani et al.* neither teaches nor suggests that the contact hole is surrounded with the sidewall insulation film. *Kimura* also neither teaches nor suggests such with regard to the contact hole.

As described above, *Hosotani et al.* and *Kimura* clearly differ from the claimed invention and do not provide any motivation for the claimed invention. Thus, the claimed invention would have been unobvious to one of ordinary skill in the art at the time of the invention was made, even if *Hosotani et al.* and *Kimura* are combined.

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Serial No.: 09/050,113

**Claims 5 and 6 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Hosotani et al.*, in view of *Kimura*, and further in view of *Fukase* (U.S. Patent No. 5,728,596).**

This rejection is respectfully traversed.

However, as described above, *Hosotani et al.* and *Kimura* clearly differ from the claimed invention and do not provide any motivation for the present invention. Thus, the claimed invention would have been unobvious to one of ordinary skill in the art at the time the invention was made, even if Fukase is further considered

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact the undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

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In the event that this paper is not timely filed, Applicant respectfully petitions for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees that may be due with respect to this paper to Deposit Account No. 50-2866.

Respectfully Submitted,

**WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP**

A handwritten signature in black ink, appearing to read 'TEB', with a long horizontal flourish extending to the right.

Thomas E. Brown  
Attorney for Applicant  
Registration No.: 44,450

TEB/jl  
1250 Connecticut Avenue  
Suite 700  
Washington, D.C. 20036  
(202) 822-1100  
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